

FILED: BRONX COUNTY CLERK 10/21/2020 03:45 PM

NYSCEF DOC. NO. 1

INDEX NO. 32293/2020E

RECEIVED NYSCEF: 10/21/2020

Doc. 9/24/18
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
HAMID KAABIANPOUR,

Plaintiff,

-against-

LUIS A. BATISTA and FEDERAL EXPRESS CORP.,

Defendants.
-----X

Index No.:

Date Purchased:

SUMMONS

Plaintiff designates
BRONX

County as the place of trial.

The basis of venue
Defendant's Residence

Plaintiff resides at:
154 Weigands Lane
Secaucus, New Jersey 07094

County of

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney(s) within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Brooklyn, New York
October 21, 2020

ANDREW M. FRIEDMAN, ESQ.
FRIEDMAN SANCHEZ, LLP
Attorneys for Plaintiff
HAMID KAABIANPOUR
16 Court Street, 26th Floor
Brooklyn, New York 11241
(718) 797-2488

TO: LUIS A. BATISTA
568 Logan Avenue
Bronx, New York 10465

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FEDERAL EXPRESS CORP.
3670 Hacks Cross Road
Memphis, TN 38125

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.:

-----X
HAMID KAABIANPOUR,

VERIFIED COMPLAINT

Plaintiff,

-against-

LUIS A. BATISTA and FEDERAL EXPRESS CORP.,

Defendants.
-----X

Plaintiff, **HAMID KAABIANPOUR**, by her attorneys, **FRIEDMAN SANCHEZ, LLP**,
complaining of the defendants, respectfully alleges, upon information and belief, as follows:

1. At all times herein mentioned, plaintiff, **HAMID KAABIANPOUR**, was, and still is, a resident of the State of New Jersey.
2. At all times herein mentioned, defendant, **LUIS A. BATISTA**, was and still is, a resident of the County of Bronx, City and State of New York.
3. At all times herein mentioned, defendant, **FEDERAL EXPRESS CORP.**, as and still is, a domestic corporation doing business in the State of New York.
5. At all times hereinafter mentioned, defendant, **FEDERAL EXPRESS CORP.**, owned a 1999 Freightliner motor vehicle bearing Tennessee State License Plate No. A963HX.
6. At all times hereinafter mentioned, defendant, **LUIS A. BATISTA**, was the operator of the 1999 Freightliner bearing Tennessee State License Plate No. A963HX.

7. At all times hereinafter mentioned, defendant, **LUIS A. BATISTA**, managed the aforesaid vehicle.

8. At all times hereinafter mentioned, defendant, **LUIS A. BATISTA**, maintained the aforesaid vehicle.

9. At all times hereinafter mentioned, defendant, **LUIS A. BATISTA**, controlled the aforesaid vehicle.

10. At all times herein mentioned, defendant, **LUIS A. BATISTA** operated the aforesaid motor vehicle bearing Tennessee State License Plate No. A963HX with the knowledge, permission and consent of defendant **FEDERAL EXPRESS CORP.**

11. At all times hereinafter mentioned, plaintiff, **HAMID KAABIANPOUR**, was the operator of a 2015 BMW motor vehicle bearing New York State license plate number T67613C,

12. At all a time hereinafter mentioned, W. 40th Street and 10th Avenue, in the County, City and State of New York, were public roadways and/or thoroughfares.

13. That on September 24, 2018, defendant **LUIS A. BATISTA** was operating the said vehicle owned by defendant **FEDERAL EXPRESS CORP.**, at the aforementioned location.

14. That on September 24, 2018, the motor vehicle operated by defendant, **LUIS A. BATISTA**, and owned by defendant, **FEDERAL EXPRESS CORP** was caused to and did come into contact with the rear-end of the motor vehicle operated by plaintiff, **HAMID KAABIANPOUR**.

15. That as a result of the aforesaid incident, plaintiff, **HAMID KAABIANPOUR**,

was injured.

16. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the defendants without any fault or negligence on the part of the plaintiff contributing thereto.

17. That defendants were negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid vehicle and the defendants was otherwise negligent, careless and reckless in the premises.

18. That by reason of the foregoing, plaintiff, **HAMID KAABIANPOUR**, sustained severe and permanent personal injuries; and plaintiff, **HAMID KAABIANPOUR**, was otherwise damaged.

19. That plaintiff, **HAMID KAABIANPOUR**, sustained serious injuries as defined in Subdivision d of Section 5102 of the Insurance Law-Recodification.

20. That plaintiff, **HAMID KAABIANPOUR**, sustained serious injuries and economic loss greater than basic economic loss as to satisfy the exceptions of Section 5104 of the Insurance Law.

21. That plaintiff, **HAMID KAABIANPOUR**, is not seeking to recover any damages for which plaintiff has been reimbursed by no-fault insurance and/or for which no-fault insurance is obligated to reimburse plaintiff. Plaintiff is only seeking to recover those damages not recoverable through no-fault insurance under the facts and circumstances in this action.

22. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602.

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23. That by reason of the foregoing, plaintiff, **HAMID KAABIANPOUR**, has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff, **HAMID KAABIANPOUR**, demands judgment against the defendants an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.



ANDREW M. FRIEDMAN, ESQ.
FRIEDMAN SANCHEZ, LLP
Attorneys for Plaintiff(s)
HAMID KAABIANPOUR
16 Court Street, 26th Floor
Brooklyn, New York 11241
(718) 797-2488

ATTORNEY'S VERIFICATION

ANDREW M. FRIEDMAN, ESQ, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at FRIEDMAN SANCHEZ, LLP, attorneys of record for Plaintiff, in the action within. I have read the annexed

Complaint

and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not Plaintiff is that Plaintiff is/are not presently resident, or present in the county wherein the attorneys for the Plaintiffs maintain their offices.

DATED: Brooklyn, New York
October 21, 2020



ANDREW M. FRIEDMAN, ESQ.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

-----X
HAMID KAABIANPOUR

Plaintiff/Petitioner,

- against -

Index No. 32293/20E

LUIS A. BATISTA and FEDERAL
EXPRESS CORP.

Defendant/Respondent.
-----X

**NOTICE OF ELECTRONIC FILING
(Consensual Case)
(Uniform Rule § 202.5-b)**

You have received this Notice because:

1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and

2) You are a Defendant/Respondent (a party) in this case.

● **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

● **If you are not represented by an attorney:**

You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.

If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.

The **benefits of participating in e-filing** include:

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

To register for e-filing or for more information about how e-filing works:

- visit: www.nycourts.gov/efile-unrepresented or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov

To find legal information to help you represent yourself visit www.nycourthelp.gov

Information for Attorneys

An attorney representing a party who is served with this notice must either consent or decline consent to electronic filing and service through NYSCEF for this case.

Attorneys registered with NYSCEF may record their consent electronically in the manner provided at the NYSCEF site. Attorneys not registered with NYSCEF but intending to participate in e-filing must first create a NYSCEF account and obtain a user ID and password prior to recording their consent by going to www.nycourts.gov/efile

Attorneys declining to consent must file with the court and serve on all parties of record a declination of consent.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: nyscef@nycourts.gov).

Dated: October 21, 2020

Andrew M. Friedman

Name

Friedman Sanchez, LLP

Firm Name

16 Court St.

Brooklyn, NY 11241

Address

7187972488

Phone

afriedman@friedmansanchez.com

E-Mail

To: _____

2/24/20